



General Assembly

February Session, 2006

Raised Bill No. 232

LCO No. 1654

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Referred to Committee on Energy and Technology

Introduced by:
(ET)

AN ACT CONCERNING TELECOMMUNICATIONS COMPETITION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-247f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2006*):

3 (a) The department shall regulate the provision of
4 telecommunications services in the state in a manner designed to foster
5 competition and protect the public interest.

6 (b) Notwithstanding the provisions of section 16-19, [a
7 telecommunications service] the following telecommunications
8 services shall be deemed competitive services: (1) A
9 telecommunications service offered on or before July 1, 1994, by a
10 certified telecommunications provider and a wide area telephone
11 service, "800" service, centrex service or digital centrex service offered
12 by a telephone company, [shall be deemed a competitive service. Any]
13 (2) a telecommunications service offered to business customers by a
14 telephone company, (3) a home office service offered by a telephone
15 company, and (4) a telecommunications service provided by a
16 telephone company or its affiliate to a residential customer who

17 subscribes to two or more telephone company services, including basic
18 local exchange service, any vertical feature or interstate toll. Unless
19 reclassified pursuant to this section, any other service offered by a
20 telephone company on or before July 1, 1994, shall be deemed a
21 noncompetitive service, provided such initial classification shall not be
22 a factual finding that such service is noncompetitive. Notwithstanding
23 subdivision (3) of subsection (c) of section 16-247b, prior to January 1,
24 2010, a telephone company shall not obtain a waiver from the
25 department of the pricing standard set forth in subdivision (1) of
26 subsection (c) of section 16-247b for any service reclassified as
27 competitive pursuant to subdivision (2), (3) or (4) of this subsection.

28 (c) On petition, on its own motion, or in conjunction with a tariff
29 investigation conducted pursuant to subsection (f) of this section, after
30 notice and hearing, and within ninety days of receipt of a petition or its
31 motion or within the time period set forth in subsection (f) of this
32 section, as applicable, the department may reclassify a
33 telecommunications service as competitive, emerging competitive or
34 noncompetitive, in accordance with the degree of competition which
35 exists for that service in the marketplace, provided (1) a competitive
36 service shall not be reclassified as an emerging competitive service and
37 (2) the department may extend the period (A) before the end of the
38 ninety-day period and upon notifying all parties to the proceedings by
39 thirty days, or (B) in accordance with the provisions of subsection (f) of
40 this section, as applicable.

41 (d) In determining whether to reclassify a telecommunications
42 service, the department shall consider:

43 (1) The number, size and geographic distribution of certified
44 telecommunications providers of the service, provided the department
45 shall not reclassify any service as competitive if such service is
46 available only from a telephone company or an affiliate of a telephone
47 company that is a certified telecommunications provider;

48 (2) The availability of functionally equivalent services in the

49 relevant geographic area at competitive rates, terms and conditions,
50 including, but not limited to, services offered by certified
51 telecommunications providers, providers of commercial mobile radio
52 services, as defined in 47 CFR 20.3, voice over Internet protocol
53 providers and other services provided by means of alternative
54 technologies;

55 [(3) The financial viability of each company providing a functionally
56 equivalent service in the relevant market;]

57 [(4)] (3) The existence of barriers to entry into, or exit from, the
58 relevant market;

59 [(5) Other indicators of market power which the department deems
60 relevant, which may include, but not be limited to, market penetration
61 and the extent to which the provider of the service can sustain the
62 price for the service above the cost to the company of providing that
63 service;

64 (6) The extent to which other telecommunications companies must
65 rely upon the service to provide their telecommunications services;]

66 [(7)] (4) Other factors that may affect competition; and

67 [(8)] (5) Other factors that may affect the public interest.

68 (e) Each certified telecommunications provider and each telephone
69 company shall file with the department a new or amended tariff for
70 each competitive or emerging competitive intrastate
71 telecommunications service authorized pursuant to section 16-247c. A
72 tariff for a competitive service shall be effective on five days' written
73 notice to the department. A tariff for an emerging competitive service
74 shall be effective on twenty-one days' written notice to the department.
75 A tariff filing for a competitive or emerging competitive service shall
76 include (1) rates and charges which may consist of a maximum rate
77 and a minimum rate, (2) applicable terms and conditions, (3) a
78 statement of how the tariff will benefit the public interest, and (4) any

79 additional information required by the department. A telephone
80 company filing a tariff pursuant to this section shall include in said
81 tariff filing the information set forth in subdivisions (1) to (4), inclusive,
82 of this subsection, a complete explanation of how the company is
83 complying with the provisions of section 16-247b and, in a tariff filing
84 which declares a new service to be competitive or emerging
85 competitive, a statement addressing the considerations set forth in
86 subsection (d) of this section. If the department approves a tariff which
87 consists of a minimum rate and a maximum rate, the certified
88 telecommunications provider or telephone company may amend its
89 rates upon five days' written notice to the department and any notice
90 to customers which the department may require, provided the
91 amended rates are not greater than the approved maximum rate and
92 not less than the approved minimum rate. A promotional offering for a
93 previously approved competitive or emerging competitive tariffed
94 service or a service deemed competitive pursuant to [section 16-247f]
95 this section shall be effective on three business days' written notice to
96 the department.

97 (f) On petition or its own motion, the department may investigate a
98 tariff or any portion of a tariff, which investigation may include a
99 hearing. The department may suspend a tariff or any portion of a tariff
100 during such investigation. The investigation may include, but is not
101 limited to, an inquiry to determine whether the tariff is predatory,
102 deceptive, anticompetitive or violates the pricing standard set forth in
103 subdivision (1) of subsection (c) of section 16-247b. Not later than
104 seventy-five days after the effective date of the tariff, unless the party
105 filing the tariff, all statutory parties to the proceeding and the
106 department agree to a specific extension of time, the department shall
107 issue its decision, including whether to approve, modify or deny the
108 tariff. If the department determines that a tariff filed as a new service
109 is, in fact, a reclassification of an existing service, the department shall
110 review the tariff filing as a petition for reclassification in accordance
111 with the provisions of subsection (c) of this section.

112 (g) The provisions of this section shall not prohibit the department
113 from ordering different tariff filing procedures or effective dates for an
114 emerging competitive service, pursuant to a plan for an alternative
115 form of regulation of a telephone company approved by the
116 department in accordance with the provisions of section 16-247k.

117 (h) On or after July 1, 2007, if the competitors of a telephone
118 company have a collective share of the market of not more than fifteen
119 per cent, then the department shall conduct a contested case
120 proceeding to determine whether the services classified as competitive
121 pursuant to subdivisions (2), (3) and (4) of subsection (b) of this section
122 should be reclassified. The telephone company shall have the burden
123 of proving the subject service should not be reclassified. Such review
124 shall be conducted pursuant to subsections (c) and (d) of this section.

125 Sec. 2. Section 16-247i of the general statutes is repealed and the
126 following is substituted in lieu thereof (*Effective July 1, 2006*):

127 Not later than January 1, 1995, and annually thereafter, the
128 department shall submit a report to the General Assembly on the
129 status of telecommunications service and regulation in the state of
130 Connecticut. Such report shall include: (1) An analysis of universal
131 service and any changes therein; (2) an analysis of the impact, if any, of
132 competition in telecommunications markets on the work force of the
133 state and employment opportunities in the telecommunications
134 industry in the state; (3) an analysis of the level of regulation which the
135 public interest requires; (4) the status of implementing the provisions
136 of sections 16-247a to 16-247c, inclusive, 16-247e to 16-247h, inclusive,
137 16-247k and this section, including achieving each of the objectives of
138 the goals set forth in section 16-247a; (5) the status of the development
139 of competition for all telecommunications services; [and] (6) the status
140 of the deployment of telecommunications infrastructure in the state;
141 and (7) the status of the implementation of this act.

142 Sec. 3. (NEW) (*Effective July 1, 2006*) Not later than January 1, 2007, a
143 telephone company that owns a hybrid fiber coaxial facility or hybrid

144 fiber coaxial network shall offer such facility or network for sale. If, by
 145 not later than July 1, 2007, said telephone company has not received an
 146 offer to purchase the facility or network, by a person that is not
 147 associated with the telephone company, of two-thirds of either the net
 148 book or salvage value of the facility or network, whichever is lower,
 149 the telephone company shall offer the facility or network for lease to a
 150 person that is not associated with the telephone company.

151 Sec. 4. (*Effective July 1, 2006*) On or after July 1, 2009, the Department
 152 of Public Utility Control shall conduct a contested case proceeding to
 153 investigate every tariff, or any portion of a tariff, that has been filed
 154 with the department in the previous three years to determine if such
 155 tariffs should be reclassified as competitive, emerging competitive or
 156 noncompetitive. The department may suspend a particular tariff
 157 during such investigation. Upon a determination that a particular tariff
 158 should be reclassified, the department shall review the tariff filing as a
 159 petition for reclassification in accordance with the provisions of
 160 subsection (c) of section 16-247f of the general statutes, as amended by
 161 this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2006</i>	16-247f
Sec. 2	<i>July 1, 2006</i>	16-247i
Sec. 3	<i>July 1, 2006</i>	New section
Sec. 4	<i>July 1, 2006</i>	New section

Statement of Purpose:

To amend the general statutes regarding the classification of telecommunications services as competitive or noncompetitive services to encourage emerging telecommunication technology.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]